REMARKS

Claims 1-34 remain in the present application. Applicants respectfully request examination and reconsideration of Claims 1-34 in light of the remarks set forth below.

35 USC 112 Rejections

The present Office Action indicates that Claims 10 and 17 are rejected under 35 U.S.C. 112 first paragraph, as failing to comply with the enablement requirement. The Office Action indicates the Examiner believes that Claims 10 and 17 are Markush-type claims drawn to a group consisting of a plurality of alternative elements and a provisional election is required. Without conceding that Claims 10 and 17 are Markush-type claims drawn to a group consisting of a plurality of alternative elements, Applicants provisionally elect a local area network as the elected element in order to address the Examiner's request.

35 USC 102(e) Rejections

Claims 1-8, 11-15, 18, 19 and 23-34 are rejected under 35 U.S.C. 102(e) for the reasons set forth on pages 3 and 4 of the present Office Action. Specifically, claims 1-8, 11-15, 18, 19 and 23-34 are rejected under 35 USC 102(e) as being anticipated by the Perkins (6,496,477) reference, which is hereinafter referred to as "Perkins" or the "Perkins reference".

Applicants respectfully submit that the present invention as claimed in

Claims 1- 34 is neither shown nor suggested by the Perkins reference. The present

invention as set forth in the presently presented independent claims indicate path

diversity is dynamically changed during transmission based on the <u>communication</u>

<u>conditions</u> between the sender and a receiver. More specifically, Applicants

respectfully assert the Perkins reference fails to teach or suggest (dynamically

changing the path diversity <u>during transmission</u> based on the <u>communication</u> *already*
addressed

<u>conditions</u> between a sender and a receiver) as recited in independent Claim 1.

Applicants also respectfully assert the Perkins reference fails to teach or

suggest (a path diversity unit dynamically changes the path diversity <u>during</u>

<u>transmission</u> based on the <u>communication conditions</u> between the sender and a

receiver) as recited in independent Claim 12.

The present Office Action indicates the Perkins discloses an adaptive software

module that dynamically picks paths based on QoS (Col. 8 lines 45-49 and Col. 19,

lines 4 –12). Applicants respectfully assert that to the extent the Perkins invention

may mention an adaptive software module to pick paths, it is directed towards <u>run</u>

<u>time</u> of the software program rather than <u>during transmission</u>. Applicants also

respectfully assert that basing the <u>dynamic changes</u> on communication conditions

between the sender and a receiver <u>during transmission</u> is not the same as a

<u>predetermined</u> QoS parameter. Applicants respectfully assert that changing the

path diversity based upon <u>actual</u> communication conditions <u>during transmission</u> is

not taught by a predetermined QoS parameter or requirement.

Applicants respectfully assert that dependent Claims 2 through 11 are allowable as depending from allowable independent Claim 1. Applicants also respectfully assert that dependent Claims 13 through 34 are allowable as depending from allowable independent Claim 12.
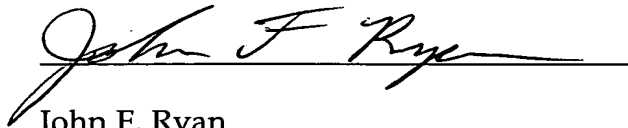
Conclusion

In light of the above-listed amendments and remarks, Applicants respectfully request allowance of the remaining Claims. The examiner is urged to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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